

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
APRIL 19, 1999 - 7:00 P.M.**

ROLLCALL Answering rollcall were Members Faust, Hovland, Kelly, and Mayor Pro-tem Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Hovland and seconded by Member Faust approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Motion carried.

MINUTES OF THE REGULAR MEETING OF APRIL 5, 1999, APPROVED Motion made by Member Maetzold and seconded by Member Kelly approving the Minutes of the April 5, 1999, Regular Council Meeting.

Motion carried on rollcall vote - four ayes.

HENNEPIN COUNTY ATTORNEY AMY KLOBUCHAR INTRODUCED Mayor Pro-tem Maetzold introduced Amy Klobuchar, Hennepin County Attorney. She explained one goal she has had since her election is that the County Attorney's office should work better with people in the communities. Ms. Klobuchar said she has worked with Police Chiefs around the County to improve relations. In order to fight crime, everyone needs to work together. Following her election she set forth a 100 day plan. Some highlights of that plan are: 1) repeat gun-offenders are being targeted; 2) drug-dealers and gang-members - set up separate property team focusing on property crimes; 3) more serious consequences for repeat juvenile offenders; 4) attempting to streamline justice system; 5) improve coordination with Police Departments; 6) augment child-support collection litigation; 7) represent County on civil side; and 8) debt collection policies.

FINAL DEVELOPMENT PLAN AND PRELIMINARY PLAT APPROVAL GRANTED, INTERLACHEN CORPORATE CENTER, HAUGLAND COMPANY Affidavits of Notice were presented, approved and ordered placed on file.

Planner Presentation

Planner Larsen informed the Council the subject property is generally located in the southwest corner of Lincoln Drive and 7th Street. The property measures approximately five acres, is vacant and zoned Planned Office District, POD-1. The current zoning has been in place since 1984. Before 1984 part of the site was zoned for office use with the balance zoned for high-density residential use.

Haugland Company is requesting Final Development Plan and Preliminary Plat allowing the construction of a four-story office building with a gross floor area of 103,933 square feet. A stormwater retention pond would be located immediately north of the building. Site access would be provided by two curb cuts along Lincoln Drive. He noted the site has no access from 7th Street because of the Highway 169 interchange's proximity. The exterior of the

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building would be brick and glass. Planner Larsen said the landscaping plan as proposed would conform to the numbers and sizes of plantings required for a site of this size.

Planner Larsen stated that the proposed plans comply with all Zoning Ordinance requirements except parking. The building would be supported by parking for 459 vehicles. One hundred eleven of those spaces would be on a one-level deck in the northeasterly portion of the site. Thirteen spaces have been converted into green space providing a greater buffer to the residential neighborhood along Lincoln Drive. The proponent would provide a "Proof of Parking" agreement showing these spaces could be restored if needed in the future. However, a parking variance would be necessary for the project.

Planner Larsen reported that the Planning Commission recommended approval of the Final Development Plan and the Preliminary Plat conditioned upon: 1) Final Plat Approval; 2) Subdivision Dedication; 3) Developer's Agreement (including curb and gutter along Lincoln Drive); 4) Landscaping Bond; and 5) Watershed District Permits. He added that staff recommends a Proof of Parking Agreement be added as a condition if approval is granted.

Planner Larsen informed Council a revised Landscaping Plan was submitted, representing a change to the parking lot in the southeasterly boulevard area south of the driveway and south of the parking deck. This was the change that necessitated the Proof of Parking Agreement. The original plan showed a 30 foot width from curb to start of parking, and which has now been increased to 50 feet. Instead of three coniferous spruce trees in the area, the number has been increased to six. Two deciduous lindens on the north portion and the red maples on the southerly portion of the site still remain on the plan. He explained that the revised plan increases the green area and visual buffer between the parking and the residential areas.

Council comments

Mayor Pro-tem Maetzold summarized that the site has been Zoned POD-1 since 1984, and the proposed development meets Code requirements with no variances. Planner Larsen said originally the plan met requirements but converting 15 parking spaces into green space, created a need for a 13-space parking variance. The original plan which meets requirements would be of record; if a need is presented in the future, spaces could be installed, but during the interim, a 13-space variance would be required.

Member Hovland inquired about the landscape plan and what the distance would be to the first row of parking. Planner Larsen answered 50 feet. Member Hovland asked for further information about berming. Planner Larsen explained at present it is not clearly defined, but berming could occur with the additional 20 feet of space. However, in staff's opinion, not enough area exists to install a berm, but rather a sloping of the earth back before landscaping. Member Hovland asked about the impact increased traffic will have on Lincoln, Malibu, and through Parkwood Knolls. Planner Larsen answered the only place to access the site is from Lincoln Drive which unfortunately residents' use to access their property as well. Too little distance exists between the Highway 169 interchange off/on ramps and the short length on the north for access. Traffic will be generated, but little will arrive from the cul-de-sac on Lincoln Drive. Probably some traffic will be some generated from residents cutting through on Malibu Drive; however, most traffic will be oriented directly to and from the freeway.

Member Hovland asked if data exists from the developer about projected traffic volumes. Planner Larsen answered there is no base of data.

Member Faust noted in the Planning Commission Minutes a comment was made about moving the pond. She agreed that the pond should be closer to the neighborhood or the southeast corner. Member Faust questioned with site re-grading, if runoff could be directed elsewhere. Planner Larsen said the runoff must be directed to the existing stormwater system.

Developer comments:

Gene Haugland, President, Haugland Company, 5229 West Highwood Drive, commented the Proof of Parking Agreement is a good idea and they will work with staff accordingly. Mr. Haugland added they attempted to move the pond to different locations within the site. The outlet is adjacent to 7th Street and the site slopes in that direction. Another problem situating parking was no access coming off 7th Street. Following discussions with engineers, architects and City staff, the conclusion was to place the pond as proposed.

Craig Larson, Opus Northwest, said the low point on the site flows to the north and changing that would be quite difficult.

Mr. Haugland added that one alternative to moving the pond would be to move the building closer to Lincoln. However, this did not seem like a viable option to the neighborhood.

Public comment

Arnie Abens, 4950 Malibu Drive, said he would rather not have a 100,000 square foot office building in the neighborhood, but realized there is little they can do about it. Neighbors believe the mistake was made in 1984. However, he added a single-story office building would be more in keeping with the buildings in the area. Neighbors are concerned with the increase in traffic, and are disappointed with the building's size. Mayor Pro-tem Maetzold said the property has been zoned for some time and the developer is exercising the right to develop it. He said the Council is sensitive to the needs of residents and neighborhoods and tries to do the best job to adequately landscape to ameliorate these concerns.

Joann Pote, 4977 Lincoln Drive, concurred with Mr. Abens. She recently bought her home and the proposal, as presented, is discouraging because of the size of the building. She asked why the pond could not be relocated if the developer is moving a hill. She voiced concern with parking on the street and suggested posting 'No Parking' signs on the residential side.

Council discussion:

Member Kelly noted once the Comprehensive Plan is approved and the Zoning requirements are in place not much else can be done. He pointed out that Mr. Haugland and the Opus Corporation are well respected and their projects highly regarded.

Member Faust concurred with Member Kelly, but voiced concern with parking and traffic. She informed the residents that if traffic is travelling too fast they should phone the Police Department to ask for additional enforcement, or to place the speed trailer in the area. If parking becomes a problem, that issue can be examined more-fully as well, by City staff.

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Member Hovland noted that transition properties are difficult. He added that staff and the Council make their very best attempt to work with neighbors on landscaping and lighting. Member Hovland also acknowledged Mr. Haugland's rights as property owner to develop the site under the Zoning Ordinance.

Mayor Pro-tem Maetzold added that after the discussion of the pond location, the pond appears to be located where it has to be because of elevation and parking concerns.

Member Kelly introduced the following resolution and moved its adoption:

RESOLUTION

APPROVING FINAL DEVELOPMENT PLAN

BE IT RESOLVED by the Edina City Council that the Final Development Plan dated April 16, 1999, for Interlachen Corporate Center, Haugland Company on the southwest corner of Lincoln Drive and 7th Street presented at the regular meeting of the City Council on April 19, 1999, be and is hereby approved conditioned upon: 1) final plat approval, 2) subdivision dedication, 3) developers agreement, 4) landscaping bond, 5) watershed district permits and 6) proof of parking agreement. Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Kelly, Hovland, Maetzold

Resolution approved.

Member Kelly introduced the following resolution and moved its adoption:

RESOLUTION

APPROVING PRELIMINARY PLAT APPROVAL

HAUGLAND FIRST ADDITION

BE IT RESOLVED by the City Council of the City of Edina, Minnesota that that certain plat entitled, HAUGLAND FIRST ADDITION platted by HAUGLAND COMPANY and presented at the regular meeting of the City Council on April 19, 1999, is hereby granted Preliminary Plat Approval with the following conditions: 1) final plat approval, 2) subdivision dedication, 3) developers agreement, 4) landscaping bond, 5) watershed district permits and 6) proof of parking agreement.. Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Kelly, Hovland, Maetzold

Resolution approved.

CONDITIONAL USE PERMIT GRANTED, NORMANDALE LUTHERAN CHURCH EXPANSION, 6100 NORMANDALE ROAD Affidavits of Notice were presented, approved and ordered placed on file.

Planner Presentation

Planner Larsen noted that Normandale Lutheran Church is requesting a Conditional Use Permit to allow an expansion of their facility. The proposal includes interior remodeling and improvements done as a part of the project that would not be subject to this permit. Normandale Lutheran Church is generally located west of Highway 100 and south of Valley View Road. The Church wants to construct a 1,080 square foot addition on the south side of their sanctuary referred to as a transept. The addition would contain 110 seats and expand total seating capacity of the sanctuary to 609 seats. The proposed plan would increase on-site parking on the east side from 183 to 205 spaces as well as re-striping and reworking of the

existing parking lot. At 609 seats in the sanctuary; the church would have a parking demand under Edina's ordinance of 203 spaces. This demand would be met by the proposed 205 spaces. Normandale Church has also agreed to limit parking demand on site by: 1) adding 22 spaces to the parking lot; 2) contracting with the Community Center for Sunday parking and operating a shuttle between the Church and Community Center lot, 3) encouraging family members to car-pool and use remote parking; 4) moving the Monday Men's Bible Study Group when they complete their cycle in May (Normandale Lutheran Church would no longer host the group in the fall); and 5) agreeing to any parking restrictions for adjacent streets (Wilryan, Cloverdale and Tingdale) during peak demands. Planner Larsen explained two neighborhood meetings have been held before the Planning Commission meeting. The plan as presented requires two variances: 1) A 6-foot setback variance; and 2) A 3-tree variance for the landscaping plan (code requires 44 overstory trees on the site; the plan adds 13 for a total of 41). Staff believes requiring the three trees to meet ordinance requirements would jeopardize growth-space for both the new and some existing trees. The proposal concentrates on screening the site from the surrounding properties. Planner Larsen reported that the Planning Commission recommended approval of the Conditional Use Permit subject to: 1) a Proof of Parking Agreement; and 2) Referral of parking restrictions to the Traffic Safety Committee.

Member Hovland asked Planner Larsen to comment on the adequacy of the screening as presented in the landscaping plan. Planner Larsen replied there is not much room to build berms, and that he approved of what was planned within the space available. Member Hovland asked what percentage of the trees are coniferous. Planner Larsen informed Council he does not have a percentage but believes most over story trees would be deciduous.

Proponent comment

Lyle Anderson, Church Administrator, Normandale Lutheran Church, commented the Church wants to be a good neighbor and would be flexible with the type of trees used for screening. Member Hovland inquired whether the neighbors had voiced an opinion about what type of trees they would like used for the screening. Mr. Anderson replied they have received no feedback from the neighbors on landscaping.

No further public comments were received.

Council comment

Member Hovland commented the absence of neighbors at the public hearing makes him believe the Church has done a good job of communicating with them. He would like to see a few conifers scattered within the landscaping to provide year-round screening. He suggested working with staff on the screening.

Member Kelly said he is not in favor of granting variances when it involves planting fewer trees. He suggested using the unexpended funds for larger trees or some other type of landscaping. Planner Larsen explained increasing the class size of trees as well as using some conifers rather than deciduous trees would balance out the costs. Member Kelly said he would like to see the cost of three trees.

Member Maetzold inquired how the motion would incorporate the request for a change in the landscaping plan.

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Manager Hughes said he believes staff understands the concept and will work out the particulars.

Member Kelly said he believes a six foot variance on Highway 100 is not an issue.

Member Hovland introduced the following resolution and moved its approval:

RESOLUTION

BE IT RESOLVED by the Edina City Council that the six foot building setback variance, three tree landscape variance and Conditional Use Permit for Normandale Lutheran Church, 6100 Normandale Road, be and are hereby granted. Motion seconded by Member Faust.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Resolution approved.

VARIANCE DENIAL UPHELD, N.C. LITTLE MEMORIAL HOSPICE, INC., 7019 LYNMAR LANE Affidavits of Notice were presented, approved and ordered placed on file.

Mayor Pro-tem Maetzold believed he may have a conflict of interest with the proposed N.C. Little Memorial Hospice variance appeal. Upon conversing with Attorney Gilligan, it was determined no conflict exists.

Planner Presentation

Planner Larsen explained the subject property is located on the east side of Lynmar Lane, is Zoned R-2, and developed with a double bungalow building. The property is the location of the N.C. Little Memorial Hospice which is a State licensed medically directed care facility helping terminally ill patients and their families in a home-like setting. The property has been operating as a hospice since December 1996.

At the April 1, 1999, Zoning Board of Appeals Meeting, a variance was requested by the Hospice to increase the size of existing bedroom spaces and to provide space for four additional bathrooms. The purpose of the four foot addition to the back of the home was to enlarge bedrooms making them more appropriate for residents using hospital beds who also often times require wheel chairs. The bathroom remodeling occurring within the existing building will also upgrade some to make them handicap accessible. The addition is to be encompassed within an area currently occupied by a patio.

The maximum allowable combined lot coverage for a double dwelling lot is 25%. The existing site conditions currently exceed the maximum allowable coverage requirements. The addition would add approximately 488 square feet of building coverage. The improvements are to accommodate the established case load of eight clients and would not provide improvements allowing for added patient levels. The eight bed licensed residential hospice is a permitted use within the R-2 Zoning District. The hospice is not a conditional use, so no special conditions beyond those imposed upon it by the Zoning Ordinance are applicable. Any modification of the property not conforming to the Zoning Ordinance must be addressed through the variance process. Staff would support the request as submitted. Staff recommended approval of the variance as it was not increasing the intensity or capacity of

the facility but only being done to increase the utility and comfort of the residents because of mobility concerns.

The Zoning Board of Appeals heard and denied the lot coverage request by a vote of two ayes and one nay.

Council Comment

Member Faust asked since the hospice is over the lot-coverage standard, was a variance granted previously. Planner Larsen said staff cannot find any history a variance but the same situation has happened in one other location in the past. He conjectured that perhaps between the building permit and the final building, something was added.

Member Hovland asked if the variance were approved could the capacity be increased by N.C. Little. Planner Larsen answered that the capacity would not change because the number of bedrooms would not change.

Proponent Comment

Jackie McGowan, Co-founder and Co-director of the N.C. Little Hospice, added that the hospice is limited by State licensing guidelines to eight beds. Ms. McGowan presented pictures depicting the proposed 488 square foot expansion. She informed the Council the area planned for the expansion is now a concrete patio. After the addition the property will still have a patio. Ms. McGowan noted that in the past hospice residents normally stayed fourteen days. Today residents stay as long as two years. The proposed expansion would allow bathrooms to accommodate wheelchairs and comply with Americans With Disabilities criteria. N.C. Little has looked at various options, but believes the requested addition is the best option. Ms. McGowan said the new bathrooms would allow staff to better handle patients and aid in the prevention of infectious diseases. She added the hospice has never had an incident, however, currently in order to dispose of patient waste from some rooms; staff must either walk through the living room or kitchen. Ms. McGowan urged the Council to grant the variance stating N.C. Little wants to make the hospice operate the best it can for the hospice residents.

Member Hovland asked if the hospice would be completely handicapped accessible after the addition. He also asked if there is progression where patients come to the facility ambulatory and then become wheelchair bound or bedridden. Ms. McGowan answered that because of the nature of hospice, this is almost always the case. In rare instances some patients are ambulatory their entire stay, but typically, their condition deteriorates until they are bedridden. Also in some cases, patients come to the hospice by stretcher and are unable to walk their entire stay.

Public Comment

Mark Chamberlain, 7004 Bristol Boulevard, said that two years ago when N.C. Little moved into the home, he had discussed the size and location with the City Attorney. The Attorney sent him the statute that said a hospice could not go over 16 residents. He expressed concern that an addition would bring an increase in the number of residents served and asked if it could be documented that the hospice is limited to only eight patients. Mr. Chamberlain also asked why the City requires a garage at this location. If N.C. Little would agree to tear down the garage, Mr. Chamberlain stated he believes that more parking could be realized. Finally,

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Mr. Chamberlain asked if the 488 additional square feet would be removed if and when the hospice ceases and the property reverts to a single family use. Attorney Gilligan said it would be possible to add a condition to the variance allowing no more than eight patients. Mayor Pro-tem Maetzold asked if Edina's Code required a garage on the property and whether or not the addition would be considered permanent or could the City require that it be removed if the use changed. Planner Larsen said the property is zoned R-2 and must have a garage. He continued stating that a variance, if granted, becomes a property right and as such the City could not require the addition to be removed if the use changes.

Tom Cavanaugh, 7104 Lynmar Lane, said his property faces Mavelle. Mr. Cavanaugh expressed concern with parking at N.C. Little now, with construction on France Avenue. He said two years ago when the hospice moved in, they told the neighbors that only two or three cars would be parked on the street. Mr. Cavanaugh said he has counted as many as thirteen cars. In the winter, it is almost impossible to plow the street because of hospice parking on the north side. Traffic is very congested now because of the hospice.

Glen Dornfeld, 7101 Lynmar Lane, commented that no one opposes a hospice. However, he believes that any addition to the building will bring additional traffic. Mavelle is very narrow today with eight cars parked on the north side plus one service truck on the south side. Mr. Dornfeld urged the variance be denied so no additional crowding be allowed.

Mary Ekegren, 7016 Lynmar Lane, stated that she would not support tearing down the garage because in her opinion, it would not increase parking and would create problems with storage of yard tools, etc. Ms. Ekegren said that the look and feel of the R-2 District is already gone, but that the addition should be disallowed because of the congestion in the area.

Council Discussion/ Action

Mayor Pro-tem Maetzold asked staff to confirm whether or not the proposed addition would create additional activity at N.C. Little Hospice. Planner Larsen answered that in staff's opinion there should be no change in traffic because the addition would not increase the number of beds or staffing.

Member Kelly stated that if the Council decided to support the variance, which he did not support, they should limit the number of beds allowed in the hospice. He continued adding he did not support the variance because in his opinion, lot coverage and overbuilding is one of the biggest issues faced in the community. The hospice is an admirable use, providing a great service, but Member Kelly did not believe it warranted changing the zoning ordinance allowing such a high percentage of lot coverage. If the hospice moves on to another facility, someone would still use the property and the lot would still be over on lot coverage. This is a land use issue and for this reason, Member Kelly does not support granting the variance.

Member Faust commented that regardless if the hospice is increased in size or not, the real problem in the situation is parking. Member Faust asked the proponents if the garage was currently used to park cars. Bob Solheim, co-director of N.C. Little, replied that the hospice parks vehicle, and also park cars on the driveway. He said they park about five cars on both the driveway and in the garage. Ms. McGowan added the vehicles must be moved around to allow ambulances access to the back of the hospice. Continuing, Member Faust questioned

whether parking would improve if the garage were removed. Ms. McGowan replied that removing the garage has been investigated and no more parking would be realized. She continued that the hospice is a non-profit organization with a board of directors and will be in existence for a long time. Ms. McGowan disagreed that a parking problem exists, and asked that no decision be based upon the parking situation as it exists with the construction going on at Room and Board. She pointed out that N.C. Little has an agreement with the mortuary when they have their staff meetings on Tuesday. The hospice is just trying to meet State requirements. Member Faust acknowledged that there are two issues. She asked if parking was only allowed on one side of the street. Ms. McGowan responded that Mavelle only allows parking on the north side. Mr. Solheim expressed frustration that governments that encourage hospices also require they operate in a single family neighborhood. He stated that the hospice has cared for 252 terminally ill patients, of which, 110 were residents from Edina. The other came from Bloomington, Hopkins, Minnetonka and surrounding areas. Mr. Solheim said the hospice is caring for neighbors and urged approval of the variance.

Member Faust asked staff if there were anyway that some of the traffic congestion could be mitigated. Engineer Hoffman replied that traffic from the construction is causing a temporary problem. However, when there is no construction, parking along the streets exists to park between 12-14 cars. The street provides a no parking condition, a parking lane, and a driving lane. There is room under normal conditions. He stated the police zone officers check the area regularly and do not report problems. Currently, officers see pick-ups parked daily coming from the construction site. Engineer Hoffman stated as Director of Public Works he has never had a complaint that there is a problem plowing snow in the area.

Member Faust stated she served on the Planning Commission for ten years before serving on the City Council and she had never seen a variance request for a 33% lot coverage. She noted that the Board of Appeals had difficulty when variances were requested for a 29% lot coverage. The hospice will still be able to serve residents. Member Faust said she cannot support granting such a large variance setting precedent in the residential areas.

Member Hovland asked about the landscaping proposed behind the building. Ms. McGowan said the entire back yard would be fenced in. Member Hovland continued stating that when granting a variance you must look at whether there has been an undue hardship required causing someone to need to exceed regulations. In this case the addition causes excess lot coverage. Member Hovland believed that in this situation an undue hardship exists because the hospice must meet legally imposed obligations as well as limitations on the capabilities of the residents, who over time become debilitated. In Member Hovland's, opinion, this situation meets the undue hardship standard. Based upon these reasons he would support the variance with two conditions: 1) no more than eight patients be allowed for occupancy; and 2) landscaping issues previously noted. He continued stating that the City should continue to monitor the parking issue. Member Hovland stated he believed it is important that people be treated and handled with the dignity they deserve as they go through the last stages of their life.

Mayor Pro-tem Maetzold also supported the variance. He stated he agreed with Member Hovland. N.C. Little came to the City with the large lot coverage issue when they began operation as a hospice. In his opinion, a hardship exists and granting the variance is reasonable. The organization must be in a residential neighborhood, yet still needs to comply

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with state requirements. They are providing an excellent needed humanitarian service in the community. He acknowledged the split positions of the Council.

Member Hovland made a motion to overturn Zoning Board of Appeals denial of N.C. Little's variance request with two conditions: 1) no more than eight patients be allowed for occupancy; and 2) the back yard be completely fenced in and landscaped. Mayor Pro-tem Maetzold seconded the motion.

Member Faust commented that this was a very difficult vote, but she felt very strongly that the City cannot set precedent by setting the large variance from the lot coverage standard.

Rollcall:

Ayes: Hovland, Maetzold

Nays: Faust, Kelly

Motion failed.

ON-SALE INTOXICATING LIQUOR LICENSES ISSUED TO PANTRY RESTAURANT, INC. d.b.a. EDEN AVENUE GRILL AND RT MINNEAPOLIS FRANCHISE LLC, d.b.a. RUBY TUESDAY Affidavits of Notice were presented, approved and ordered placed on file.

Manager Hughes noted that the two applicants have now submitted plans to the Health Department that are satisfactory showing how they plan to serve and store liquor. He noted that staff recommended approval of the licenses contingent upon completion of the applicants' remodeling and Edina Health Department final inspection.

Mayor Pro-tem Maetzold called for public comment. No one appeared to speak.

Motion by Member Faust and seconded by Member Hovland granting On-Sale Intoxicating and Sunday Sale Liquor Licenses to Pantry Restaurant, Inc. d.b.a. Eden Avenue Grill conditioned upon completion of remodeling and final inspection by the Health Department.

Rollcall:

Ayes: Faust, Kelly, Hovland, Maetzold

Licenses granted.

Motion by Member Kelly and seconded by Member Faust granting On-Sale Intoxicating and Sunday Sale Liquor Licenses to RT Minneapolis Franchise LLC d.b.a. Ruby Tuesday conditioned upon completion of remodeling and final inspection by the Health Department.

Rollcall:

Ayes: Faust, Kelly, Hovland, Maetzold

Licenses granted.

ORDINANCES NO. 1999-8 ADOPTING CURRENT MINNESOTA STATE BUILDING CODE AND NO. 1999-9 ADOPTING CURRENT FIRE CODES ADOPTED Manager Hughes explained the two proposed ordinances would adopt the most current statutory building and fire codes. He said they did not substantively change the existing code, but brought it into compliance with Minnesota Statutes.

Member Hovland made a motion introducing the following ordinance, granting first reading, and waiving second reading:

ORDINANCE NO. 1999-8

**AN ORDINANCE AMENDING SECTIONS 410 AND 440
OF THE CITY CODE TO PROVIDE UPDATES TO THE
MINNESOTA STATE BUILDING CODE AND THE UNIFORM BUILDING CODE,
TO ADOPT OPTIONAL PROVISIONS OF
THE MINNESOTA STATE BUILDING CODE AND THE UNIFORM BUILDING CODE,
AND TO UPDATE PLUMBING INSTALLATION REQUIREMENTS**

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. Subsection 410.01 of Section 410 of the City Code is amended to read as follows:

"410.01 State Building Code Adopted. There is hereby adopted and incorporated herein by reference, as a section of this Code, the Minnesota State Building Code (the "MSBC") as promulgated by the State Department of Administration pursuant to M.S. 16B.59 through 16B.75, including amendments to the MSBC in effect on October 5, 1998, and including the following, but only the following, listed optional provisions of the MSBC and of the 1997 Edition of the Uniform Building Code as promulgated by the International Conference of Building Officials (the "UBC"), except, however, that fees shall be as provided in this Section. The optional provisions which are hereby adopted are as follows:

A. Chapter 1306 with Option 8 (Group M, S, or F occupancies with 2,000 or more gross square feet) of the MSBC relating to Special Fire Protection Systems.

E. Chapter 1335, parts 1335.0600 to 1335.1200 of the MSBC relating to Floodproofing."

Section 2. Paragraph A of Subsection 410.03 of Section 410 of the City Code is amended to read as follows:

"A. The State Building Code regulations known and identified as Chapters 1300, 1301, 1302, 1305, 1306, 1307, 1315, 1325, 1330, 1335, 1340, 1346, 1350, 1360, 1361, 1370, 4715, and 7670."

Section 3. Paragraph C of Subsection 410.03 of Section 410 of the City Code is amended to read as follows:

"C. The 1996 Edition of the National Electrical Code (NEC) as approved by the American National Standards Institute (ANSI/NFPA70-1996)."

Section 4. Paragraph F of Subsection 410.03 of Section 410 of the City Code is amended to read as follows:

"F. Minnesota Energy Code as set out in Chapter 7670 of Minnesota Rules, 1998."

Section 5. Paragraph G of Subsection 410.03 of Section 410 of the City Code is amended to read as follows:

"G. Minnesota Plumbing Code as set out in Chapter 4715 of Minnesota Rules, 1998."

Section 6. Subd. 2 of Subsection 440.03 of Section 440 of the City Code is amended to read as follows:

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Subd. 2 Exceptions. 1. Any other provisions of this Section to the contrary notwithstanding and where permitted by State Law, permits may be issued to make repairs, additions, replacements, and alterations to any plumbing or drainage work or install water conditioning equipment in any single family dwelling structure used exclusively for living purposes or any buildings accessory thereto, provided that all such work in connection with it shall be performed only by the person who is the bona fide owner and occupant of such dwelling as the person's residence or a member of such owner-occupant's immediate family. "Immediate family" includes only a parent, spouse, child by birth or adoption, and such child's spouse.

2. Water service and building sewer lines may be installed by persons who complete the training for and earn a Pipe Layer Card, their assistants and contractors who employ them so long as there is at least one cardholder in each trench where work is proceeding.

Section 7. Effective Date. This ordinance shall be in full force and effect upon passage and publication.

First Reading :	April 19, 1999
Second Reading:	Waived
Published in the <u>Edina Sun Current</u> :	April 28, 1999

City Clerk

Mayor Pro-tem

Member Faust seconded the motion

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Ordinance adopted.

Member Kelly made a motion introducing the following ordinance, granting first reading and waiving second reading:

**Ordinance No. 1999-9
An Ordinance Amending Section 605
of the City Code to Provide Updates to the
Minnesota Uniform Fire Code**

The City Council of the City Of Edina Ordains:

Section 1 Subdivision 1 of 605.01 of Section 605 of the City Code is amended to read as follows:

Subd. 1 Minnesota Uniform Fire Code. The 1998 Minnesota Uniform Fire Code (the "MUFC"), promulgated by the State Department of Public Safety as published June 29, 1998 in Minnesota Rules, Specifically Minnesota Statutes 1998 (299F.011 Parts 7510.3310 through 3360, 3410 through 3440, 3460 through 3480, 3540, 3580, 3590, 3640, 3660 and 3700 with the changes and omissions as set forth in this Section.

Section 2 Subdivision 2 of 605.01 of Section 605 of the City Code is amended to read as follows:

Subd. 2 Uniform Fire Code. The 1997 Edition of the Uniform Fire Code promulgated by the International Conference of Building Officials and the Western Chiefs Association (the "UFC"), with the changes and omissions as set forth in this section and the "MUFC".

Section 3 Subdivision 605.01 of Section 605 of the City Code is amended by adding a new Subdivision 3 as follows:

Subd. 3 Appendices. The following appendices of the UFC are adopted as part of this Code: I-A, II-D, II-E, II-K, II-L, IV-B, and VI-A.

Section 4 Subdivision 1 of 605.02 of Section 605 of the City Code is amended to read as follows:

Subd. 1 Article 1. Article 1 section 105 "Permits" of the UFC is included in its entirety:

Section 5 Subdivision 2 of 605.02 of Section 605 of the City Code is amended to read as follows:

Subd. 2 Article 10. Article 10 "Fire Protection" of the UFC as adopted by the MUFC is amended as follows:

Section 1001 General. is amended by adding a new subsection 1001.3 reading as follows: "1001.3 Permits. Permits for the installation of fire protection systems shall be obtained as provided for in Section 625 of this Code."

The remaining sections are to be re-numbered 1001.4 through 1001.11 respectively.

Section 6 Subdivision 3 of 605.02 of Section 605 of the City Code is amended to read as follows:

Subd. 3 Article 11. Article 11 "General Precautions against Fire" of the UFC as adopted by the MUFC is amended as follows:

A. Section 1102.3 Open Burning is amended by adding to it new sections as follows:

Section 1102.3.1 Open Fires Prohibited. No person shall ignite, cause to be ignited, or maintain an open fire except as permitted in section. 1102.3.

Section 1102.3.2 Certain Open Fires Permitted. An open burning permit in accordance with Section 1101.3 may be issued for the following purposes:

1. Instruction and training of firefighting personnel.
2. Abatement of hazards that, in the opinion of the fire chief, cannot be abated by other reasonable means.
3. Management of vegetation by the jurisdiction, other governmental agencies, or other individuals that, in the opinion of the Fire Chief, show a valid need, and under the direction of the Fire Department.

4. Special events or ceremonies by recognized organizations, not conforming to Appendix II-K and under the direct supervision of the Fire Department.

B. The remainder of the sections shall be re-numbered 1102.3.3 through 1102.3.9 respectively.

Section 7 Subdivision 605.03 of Section 605 of the City Code is amended to read as follows:

605.3 Codes on File. One copy of each of the following, each marked "Official Copy", is on file in the office of the Fire Marshal and shall remain on file and available for use and examination by the public upon request:

A. MUFC

B. UFC

Section 8 Subdivision 2 of 605.07 of Section 605 of the City Code is amended to read as follows:

Subd. 2 Existing Fire Lanes and Signs. Fire lanes in existence prior to the effective date of this Section shall be permitted to remain using existing signs so long as such signs are maintained in good repair and condition. If the Bureau of Fire Prevention determines that such signs are not maintained as required in this Section, it may require signing as provided in Subd. 3 of this Subsection.

Section 9 Subdivision 3 of 605.07 of Section 605 of the City Code is amended to read as follows:

Subd. 3 New Fire Lanes and Sign Specifications. Fire lanes established after the effective date of this Code, or existing fire lanes changed after the effective date of this Code, shall be marked by signs, not more than 100 feet apart, bearing the words, " No Parking, Fire Lane, By Order of the Fire Chief", with the first and last sign marking the limits of the fire lane. The signs shall have red letters and a red border on a white background, shall be 12 inches by 18 inches in size and shall otherwise comply with the standards from time to time established by the Fire Chief for such signs.

Section 10 Subdivision 4 of 605.07 of Section 605 of the City Code is amended to read as follows:

Subd. 4 Maintenance of Fire Lanes and Signs. When the fire lane is on public property or public right-of-way, the sign or signs shall be erected and maintained by the City, and when on private property, they shall be erected by the owner at the owners expense within 30 days after the owner has been notified of the order. After these signs are erected they shall be maintained by the owner at the owners expense. After the signs are erected, no person shall park a vehicle in or otherwise occupy or obstruct the fire lane.

Section 11 Effective Date. This ordinance shall be in full force and effect upon passage and publication.

First Reading :

April 19, 1999

Second Reading:
Published in the Edina Sun Current:

Waived
April 28, 1999

City Clerk

Member Hovland seconded the motion.
Rollcall:
Ayes: Faust, Hovland, Kelly, Maetzold
Ordinance adopted.

Mayor Pro-tem

***BID AWARDED FOR TOPDRESSING MIXTURE FOR 4-WHEEL DRIVE HYDRAULIC ROTARY MOWER, BRAEMAR GOLF COURSE** Motion made by Member Hovland and seconded by Member Faust for award of bid for 4-wheel drive hydraulic rotary mower for Braemar Golf Course to recommended low bidder, North Star Turf, Inc., at \$29,146.00 plus tax.

Motion carried on rollcall vote - four ayes.

***BID AWARDED FOR ORTHO-POLY BLEND WATER TREATMENT PRODUCT, UTILITY DEPARTMENT** Motion made by Member Hovland and seconded by Member Faust for award of bid for the annual purchase of ortho-poly blend water treatment product to DPC Industries, Inc., at \$6.40/gallon.

Motion carried on rollcall vote - four ayes.

BID AWARDED FOR MAPLE ROAD SIDEWALK IMPROVEMENT NO. S-75 Following a brief discussion Member Kelly made a motion for award of bid for the Maple Road Sidewalk Improvement No. S-75 to the recommended low bidder Ron Kassa Construction, Inc., at \$50,822.00. Member Hovland seconded the motion.

Ayes: Hovland, Kelly, Maetzold

Nay: Faust

Motion carried.

***BID AWARD CONTINUED TO 5/3/99 FOR CHEYENNE CIRCLE LIFT STATION IMPROVEMENT LS-14** Motion made by member Hovland and seconded by member Faust to continue the award of bid for the Cheyenne Circle Lift Station Improvement LS-14 to May 3, 1999.

Motion carried on rollcall vote - four ayes.

***TRAFFIC SAFETY REPORT OF APRIL 6, 1999 APPROVED** Motion made by Member Hovland and seconded by Member Faust approving Section A of the Traffic Safety Staff Report of April 6, 1999:

1. Installation of a "No Outlet" sign for northbound Larada Lane at Green Farms Road;
2. Installation of a "Yield" sign for eastbound Green Farms Road at Larada Lane;
3. Paint a STOP bar on the roadway indicating the stopping point for a red light for vehicles on the southbound approach to the intersection at Metro Boulevard and West 70th Street; and

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4. Deploy the speed display trailer for education purposes in both directions in the 4300 block of Parklawn Avenue and to acknowledge Sections B and C.

Motion carried on rollcall vote - four ayes.

ROY K. JENSON ENDORSED TO HENNEPIN COUNTY BOARD AS CANDIDATE FOR NINE MILE CREEK WATERSHED DISTRICT BOARD OF MANAGERS

Manager Hughes stated that Roy K. Jenson, an Edina resident, has applied for the vacancy on the Nine Mile Creek Watershed District Board of Managers. Member Hovland said that Mr. Jenson had spoken with him also requesting the Council endorse his appointment. Following a brief discussion, **Member Hovland introduced the following resolution and moved its adoption:**

RESOLUTION

WHEREAS, a vacancy exists on the Nine-Mile Creek Watershed District Board of Managers.

BE IT RESOLVED, by the City Council of the City of Edina, Minnesota, that it hereby recommends and nominates Roy K. Jenson to the Hennepin County Board of Commissioners for appointment to the Nine-Mile Creek Watershed District Board of Managers and urges the Commissioners to approve the appointment.

Passed this 19th day of April, 1999. Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Motion carried.

TURF MANAGEMENT PLAN DISCUSSED Park Director Keprios gave background information regarding the City's Turf Management Plan. The Council adopted a temporary moratorium on the use of herbicides from August 1, 1994 to March 31, 1995. Input was received from community organizations as well as concerned residents and non-residents, staff, and professional resources. Staff created a Turf Management Plan based on an Integrated Pest Management (IPM) approach to turf management. Integrated Pest Management is an ecological approach to management of turf resulting in a reduction in use of potentially hazardous chemicals. The plan was approved by the Council in 1995. Since adoption of the plan, the City has significantly reduced its use of herbicides on public property.

Director Keprios explained the goal of the Turf Management Plan is to continue to manage the City's public property turf areas with the least amount of herbicides. The policy was based on the premise that the potential short-term and long-term health benefits far outweigh the additional costs and aesthetic results associated with the Turf Management Plan. Some roadside areas have not been treated with herbicides for over four years and now require treatment as well as aerification and over-seeding to restore the turf to a healthy condition. The areas are primarily boulevards, frontage roads and median areas that are classified "B" under the Plan and are rarely used by children and considered to be a lower health risk area. Staff intends to treat those areas and to restore them to a healthy condition this spring.

Weed control is not a perfect science and the Turf Management Plan will need to be adjusted to fit changing technology, research and other factors that influence the IPM approach to turf

care. Staff will continue to monitor and maintain the safest and healthiest turf within the City with a minimal use of herbicides.

Member Faust said weeds at the garden club flower gardens are higher than the flowers and should be treated. Medians around Southdale also need treatment in her estimation. Director Keprios stated the areas were in keeping with the turf management plan, but staff will check the areas and take care of the weeds.

Member Hovland noted various areas that needed treatment; the 70th Street area, several limestone walls around the City, and the area around the Galleria. He noted the existing Council were not in office when the Turf Management Plan was adopted and commended those who worked on it. He questioned whether on page 12 , Item 10, Area B should be Area A. Director Keprios said he would keep this in mind when planning the treatment. Member Hovland inquired whether additional flower beds could be included in public areas.

Connie Hondl, 5209 Tifton Drive, reminded the Council that this process took a long time and entailed many hours of work to decide the end classifications. She expressed concern with the use of pesticides and believes the public should be tolerant of a few weeds and dandelions.

Vince Cockriel, Park Superintendent, said the larger boulevards are showy and can create a nuisance with dandelions. The problem occurs when treatment is done on smaller boulevard areas where a margin for error exists with drifting and over-spray. Children do not play in those areas but residents do see this drift or over-spray causing concern.

Mayor Pro-tem Maetzold stated staff has identified areas as needing treatment and there may be other areas that need to be included in the treatment program and require staff examination.

Manager Hughes noted now is the perfect season for treatment and if the Council has areas within the City of concern, staff should be made aware of these areas.

Director Keprios reported that residents say, "this is what makes Edina great", about both treating weeds and not treating weeds. It is a difficult place to be in.

Member Faust commented there are tons of weeds in Edina but commercial tax payers should have an attractive area around their property.

Member Kelly stated some parks have deteriorated significantly but he believes we should stay on board with the program or consider tweaking it to make it even better. He personally does not want Edina's parks to be the source of comments about how unkempt they are. He would not mind revisiting certain areas in Edina to see if additional areas could be included in the treatment program.

Director Keprios responded where rinks are flooded it is nearly impossible to grow grass.

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Bob Kojetin, 5016 William Avenue, inquired about areas between the concrete and the curb/sidewalks. He noted about ten years ago a program used soil sterilant to eradicate the weeds. Director Keprios said the areas are part of the program and are sprayed.

Robert Castellano, , 4854 France, inquired what type of herbicides are being used to treat the weeds. Director Keprios said the Turf Management Plan states the type of herbicides that are acceptable.

No further action was required nor taken.

***DESIGNATION AND RESERVE FUND BALANCE REPORTED FOR YEAR ENDING DECEMBER 31, 1998** Motion made by Member Hovland and seconded by Member Faust accepting the report of reserved and designated fund balances for year ending December 31, 1998.

Motion carried on rollcall vote - four ayes.

CLAIMS PAID Motion made by Member Hovland approving payment of the following claims as shown in detail on the Check Register dated April 16, 1999, and consisting of 31 pages: General Fund \$248,846.97; Communications \$768.45; Working Capital \$67,455.82; Art Center \$4,247.87; Golf Dome Fund \$5,987.17; Swimming Pool Fund \$19,780.77; Golf Course Fund \$74,825.74; Ice Arena Fund \$27,706.63; Edinborough/Centennial Lakes \$20,666.07; Utility Fund \$141,086.78; Storm Sewer Utility Fund \$16,882.95; Recycling Program \$35,092.44; Liquor Dispensary Fund \$150,547.49; Construction Fund \$29,236.62; Park Bond Fund \$2,152.56; TOTAL \$845,284.33; and for confirmation of payment of the following claims as shown in detail on the Check Register dated April 6, 1999, and consisting of 3 pages: General Fund \$231,663.10; Communications \$7,672.75; Utility Fund \$12,694.06; Liquor Dispensary Fund \$92,927.65; Construction Fund \$92.10; TOTAL \$345,049.66. Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Pro-Tem Maetzold adjourned the Council Meeting at 9:26 P.M.

City Clerk